United Nations S/2010/359

Security Council

Distr.: General
6 July 2010

Original: English

Second report of the Secretary-General pursuant to paragraph 3 of resolution 1905 (2009)

I. Introduction

1. The present report is submitted pursuant to paragraph 3 of Security Council resolution 1905 (2009), in which the Council requested me to report every three months, with the first report no later than 1 April 2010, to include details on progress made in strengthening financial and administrative oversight of the current Development Fund for Iraq, as well as details on the legal issues and options to be considered with respect to implementing successor arrangements for the Development Fund and an assessment of the progress of the Government of Iraq in preparing for such arrangements.

2. The issues covered in the present report were discussed at the recent meeting of the International Advisory and Monitoring Board held in Paris on 28 and 29 April 2010, and reflect activities with regard to both the Advisory Board and the Development Fund that have taken place between the time of my first report of 1 April 2010 (S/2010/166) and 30 June 2010.

II. Major developments

A. Recent activities with regard to the Development Fund for Iraq and the International Advisory and Monitoring Board

3. At the meeting held in Paris, the Advisory Board considered the preliminary results of the audit of the Development Fund for the year ended 31 December 2009. The summary of the preliminary results of the KPMG audit are available on the Advisory Board's website. The audit continues to highlight issues of concern regarding weaknesses in controls over oil extraction and in the spending ministries. Audit fieldwork is not yet complete, as a result of delays caused by recent bombings that affected a number of ministries.

4. At the meeting, the Advisory Board approved the audit appointment process and concurred with the recommendation of the Government of Iraq to appoint PricewaterhouseCoopers to conduct the 2010 audit of the Development Fund, including an interim review of the period from 1 January 2010 to 30 June 2010.

Please recycle

5. At the meeting held in Paris, the Iraqi representative to the Advisory Board, the President of the Board of Supreme Audit and the representative of the Committee of Financial Experts briefed the Advisory Board on progress in implementing earlier recommendations of the Advisory Board and in strengthening the overall framework for public financial management in Iraq.

6. The Advisory Board was also briefed by the representative of the Committee of Financial Experts on actions taken to enhance the transparency and accountability of the Development Fund, taking into account the earlier external audit findings. That briefing is published on the websites of both the Advisory Board and the Committee.

7. I welcome the fact that the Committee of Financial Experts continues to meet monthly and, in conjunction with the Board of Supreme Audit, performs detailed follow-up and investigation of recommendations contained in the independent audit reports commissioned by the Advisory Board. In addition, I welcome the fact that a number of audit recommendations have been implemented while the outstanding findings are being closely followed up.

8. I note with concern, however, that, owing to certain administrative issues, there were delays in implementing the comprehensive oil-metering system. I urge the Government of Iraq to follow up on this issue and ensure that the implementation of the comprehensive oil-metering system continues as envisaged in the time-bound action plan presented to the Security Council.

9. In April 2010, the Controller of the United Nations, Jun Yamazaki, my designated representative on the Advisory Board, briefed the Security Council on the activities of the Development Fund and the Advisory Board.

10. The next meeting of the Advisory Board, with the participation of the representative of Committee of Financial Experts, is tentatively scheduled for October 2010.

B. Assessment of the progress of the Government of Iraq in preparing for the successor arrangements for the Development Fund for Iraq

11. In paragraph 4 of Security Council resolution 1905 (2009), the Security Council called upon the Government of Iraq to put in place the necessary action plan and timeline by 1 April 2010 and to ensure the timely and effective transition to a post-Development Fund mechanism by 31 December 2010 that takes into account the standby arrangement requirements of the International Monetary Fund, includes external auditing arrangements and enables Iraq to meet its obligations as established in the provisions of paragraph 21 of resolution 1483 (2003).

12. I welcome the second quarterly report of the Government of Iraq to the Security Council. The report provides an update on the action plan and timeline for the transition to the successor arrangements for the Development Fund.

13. In this respect, I am pleased that, in its second quarterly report to the Security Council, the Government of Iraq notes that, as at 15 June 2010, measures have been implemented in accordance with the plan presented in its first quarterly report, dated 18 March 2010 (see S/2010/308, annex).

14. The Government of Iraq has received confirmation from the Federal Reserve Bank of New York of continuation of the existing mechanism in place for the Development Fund for Iraq, to be effective after 31 December 2010. Accordingly, a sub-account for compensations will be established that allows the Government of Iraq to continue to deposit 5 per cent of the proceeds of all export sales of petroleum, petroleum products and natural gas.

15. I am encouraged that the Government of Iraq, in coordination with the recommendation of Committee of Financial Experts, will continue to select an independent international auditor that will be responsible for auditing the successor entity to the Development Fund.

16. With regard to the outstanding activities under the oil-for-food programme, of the 3,009 letters of credit referenced in the note attached to my letter of 1 May 2009 to the President of the Security Council (S/2009/230), 64 letters of credit, with an approximate value of $110 million, were still outstanding as at 31 May 2010. As detailed in the note accompanying my letter of 7 December 2007 to the President of the Security Council (S/2007/725), beyond the letters of credit still outstanding as described above, the Secretariat had identified certain beneficiaries who had made claims of delivery prior to the expiry of the letter of credit and whose letters of credit had been cancelled. As mentioned in the note attached to my letter of 1 May 2009 to the President of the Security Council, I believe that, whatever option the Security Council may select for concluding all outstanding issues under the oil-for-food programme, these letters of credit should be treated in the same manner as the 64 letters of credit still outstanding. Therefore, the total number of letters of credit with outstanding claims of delivery as at 31 May 2010 would amount to 67 letters of credit.

17. I note that the Council of Ministers of Iraq has established the ministerial committee to review all of the outstanding letters of credit. In this respect, I wish to recall that the responsibility for the confirmation of the arrival of goods in Iraq was transferred to the Government of Iraq, effective as at 30 June 2004. I note, from its second quarterly report to the Security Council, that the Government of Iraq will provide the Secretariat with confirmation of the arrival of 26 outstanding letters of credit.

18. Absent the receipt by the Secretariat of the requisite confirmations of arrival of the remaining letters of credit, the Security Council may wish to consider cancelling those remaining letters of credit that have outstanding claims of delivery.

19. Irrespective of the manner selected by the Security Council for the closing of the oil-for-food programme, the conclusion of all issues outstanding should be subject to the provision by the Government of Iraq of a comprehensive indemnity with regard to all activities of the Organization, its representatives and agents in connection with the programme since its inception and with regard to the funds that have been transferred and will be transferred to the Development Fund for Iraq. I would like to recall that the conclusion of the outstanding activities under the programme should also be subject to the availability of sufficient funds for the Organization to meet the costs and expenses that have been incurred or may be incurred in future in connection with the programme, including the costs and expenses associated with the winding down of the programme and the costs and expenses arising from the cooperation of the Organization with Member States in respect of investigations and proceedings related to the programme.

20. I would like to conclude by expressing my appreciation to the Government of Iraq for its efforts to fully implement the action plan as presented in its first report to the Security Council. At the same time, I urge the Government of Iraq to continue to meet the deadlines set in that report. I look forward to keeping the Council informed of the progress of the Government of Iraq in preparing for successor arrangements for the Development Fund for Iraq.